

Attorney Docket No.: F7742(V)
Serial No.: 10/582,600
Filing Date February 7, 2008
IA Filing Date: November 17, 2004
Confirmation No.: 2780

REMARKS

Amendments to the Claims

Claims 3 and 4 were amended to make their metes and bounds more clear and definite. Specifically, the recitation of multiple ranges for limitations on particle diameter and amount of admixed fat has been corrected.

Claims 11 is new and recites the most preferred range for particle diameter originally recited in claim 3 (page 5, line 2).

Claim 12 is new and recites the most preferred range for admixed fat originally recited in claim 4 (page 6, line 18).

Statement of Common Ownership

At the time the invention was made in the present application, Serial No. 10/582,600, all the inventors were employees of and under obligation to assign the rights of their inventions to Conopco, Inc d/b/a Unilever which also at the time of the invention owned the Patent Application 10/582,281 (Now US Patent No. 7,781,007) to Beltman et al.

A statement of common ownership is also attached on a separate page at the end of this document

Claim Rejections – 35 USC § 112

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Claims 3 and 4 were rejected under 35 USC 112, second paragraph, as being indefinite for reciting both broad and narrow ranges for the same elements. The amended claims now recite only one range making their metes and bounds clear and definite. Applicants' respectfully request the Examiner to reconsider and withdraw the §112 rejection.

Claim Rejections – 35 USC § 103

Claims 1-10 were rejected under 35 USC 35 §103(a) as being unpatentable over Beltman et al (US7,781,007).

Since the subject matter of claims 1-10 qualifies only under 102(e) (from the standpoint of time events) and in view of the above statement of *Common Ownership*, applicants respectfully request that Beltman et al (US7,781,007) be disqualified as a prior art reference under 35 USC §103(c) and that the §103(a) rejection be withdrawn.

Double Patenting

Claims 1-10 were rejected on the grounds of nonstatutory obviousness-type double patenting over claims 1-13 of US Patent No. 7,781,007.

Applicants herewith provide a terminal disclaimer over the aforementioned co-pending application. The terminal disclaimer is believed to obviate this rejection.

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In light of the above amendments, remarks and Terminal Disclaimer, applicants respectfully request that the application be allowed to issue.

If a telephone conversation would be of assistance in advancing prosecution of the subject application, applicants' undersigned agent invites the Examiner to telephone him at the number provided.

Respectfully submitted,

/ Michael P. Aronson /

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